



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

GOVERNOR'S OBJECTIONS

Bill No. 33-0157 is hereby approved with the exception of the following item(s), part or parts, portion or portions thereof, which are hereby objected to and disapproved and deleted as marked on the Bill, pursuant to Section 9(b) of the Revised Organic Act of the Virgin Islands of 1954 as amended.

In **SECTION 1** under **C/CTR** by striking "NEW OMB George Harley vs GVI: action for damages \$1,426,469."

Witness my hand and the seal of the Government of the Virgin Islands of the United States, at Charlotte Amalie, St. Thomas, Virgin Islands, this 7th day of October 2019.

SEAL

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Albert Bryan, Jr.
Governor



THE VIRGIN ISLANDS OF THE UNITED STATES

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Tel: (340) 773-1404
Fax: (340) 713-9806

1105 King Street
Christiansted, St. Croix, U.S.V.I. 00820

Tel: (340) 772-1000
Fax: (340) 772-0333

October 8, 2019

VIA MESSENGER

The Honorable Novelle E. Francis, Jr.
President
Thirty-Third Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Governor's Action on Budget Bill Nos. 33-0157, 33-0158, 33-0159, 33-0160, 33-0161, 33-0162, 33-0163, 33-0164, 33-0165, 33-0166, 33-0167, 33-0168, 33-0169, 33-0170, 33-0171, 33-0172, 33-0173, 33-0174, 33-0175, 33-0176, 33-0177, 33-0178, 33-0179, 33-0180, 33-0181, 33-0182, 33-0183, 33-0184, 33-0185, and 33-0186.

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954, as amended, I have today acted on the Budget Bills numbered 33-0157, 33-0158, 33-0159, 33-0160, 33-0161, 33-0162, 33-0163, 33-0164, 33-0165, 33-0166, 33-0167, 33-0168, 33-0169, 33-0170, 33-0171, 33-0172, 33-0173, 33-0174, 33-0175, 33-0176, 33-0177, 33-0178, 33-0179, 33-0180, 33-0181, 33-0182, 33-0183, 33-0184, 33-0185, and 33-0186.

I am pleased to approve Budget Bills numbered 33-0158, 33-0159, 33-0160, 33-0161, 33-0162, 33-0163, 33-0164, 33-0165, 33-0166, 33-0167, 33-0168, 33-0169, 33-0170, 33-0171, 33-0172, 33-0173, 33-0174, 33-0175, 33-0176, 33-0177, 33-0178, 33-0179, 33-0180, 33-0181, 33-0182, 33-0183, 33-0184, 33-0185, and 33-0186.

As to Bill No. 33-0157, which includes several items of appropriations, although I have approved the bill, I object to the appropriation located on pg. 8 and the line item, which states, "NEW OMB – George Harley v. GVI; Action for damages \$1,426,469." This line item as included indicates that judgment is due. However, the Attorney General advises that there is no judgment or settlement in the *George Harley v GVI et al, Civ No. SX-98-CV-559*, matter.

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Hence, there is no reason to provide for a judgment payment for this unresolved matter. This same bill contains a \$15,000 appropriation to cover "Judgments \$6,001 to \$25,000", which is a severe cut from the \$150,000 requested to pay for the government's outstanding legitimate judgments to more than one individual. I am, therefore, vetoing the line item appropriating funds for the still active matter of *George Harley v GVT* in its entirety.

I, also, wish to raise concern that no funding was provided for the White Collar Crime Unit of the Department of Justice at a time when we need to show concerted efforts on this front to the community and our federal oversight partners. It is respectfully requested that the sum line-item vetoed above be reappropriated to fund the White Collar Crime Unit.

Additionally, pg. 8 of Bill 33-0157 includes the following line item: "NEW OMB – Retroactive Payment to Retirees Over 65 \$10,000,000." This line item is punitive, and by including it in this Bill the Legislature discriminates against those Retirees who are under the age of 65 and are also owed retroactive monies. It is not this administration's goal to exacerbate the hardship of some individuals over others, we are a part of a community that does not discriminate by age. Therefore, legislative action must continue to uphold this unity. I urge the Legislature to reconsider this action and equally distribute this payment to all through funding for income tax refunds. We understand that the government owes this money to retirees and we created a plan to address this debt through other funding resources.

In crafting the budget, I prioritized the payment of \$75 million in tax returns owed to the community at large. These earnest taxpayers ultimately are responsible for all the salaries paid to government workers, whether past or present and they must be made whole. Tax returns and especially the earned income credit are designed to help people overcome the tremendous strain of poverty and inflation that constantly hampers individual progress. The payment of these returns will not be easy, but we will make good on this commitment before we commit to any other payment. Therefore, although I will move to approve Bill No. 33-0157 overall, it is with grave reservations and concerns in light of the Legislatures decision to include the two line items discussed above. However, if my objections and recommendations are taken into account, and a collaborative effort is maintained, the community will continue to progress and benefit.

As always, I thank you and the members of the Thirty-Third Legislature for your sustained efforts and hard work on behalf of our community.

Sincerely,



Albert Bryan Jr.
Governor

Enclosures



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VIA MESSENGER

The Honorable Novelle E. Francis, Jr.
President
Thirty-Third Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Governor's Action on Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954, as amended, I have today acted on Bills numbered 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

I have signed into law Bill No. 33-0011 with reservations. Bill No. 33-0011, an Act updating the loitering law, includes a problematic section providing "no loitering zones", which need to be more clearly defined by the Legislature. By creating designated "loitering zones" the language in section 2 of the Bill allows the loitering law to only apply in designated areas when it is the intent of the law to criminalize the act of loitering throughout the Territory, not just in some areas. Furthermore, there are concerns from the public and law enforcement that additional language needs to be added to provide guidance and training to the officers who are responsible for enforcing this law, and to address ongoing loitering problems that amount to harassment that occurs upon sidewalks and streets. Therefore, it is requested that section 2 be stricken and the law amended to provide clarifying language. (**See: Appendix for proposed language on harassment and solicitation for business purposes**).

Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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Bill No 33-0040 has also been signed into law, but with grave reservations. Bill No 33-0040 includes an Act requiring passengers to now wear safety belts when seated in the rear of a motor vehicle and the non-germane addition to the Bill that amended the time limitation of the "nonconforming use" exception to the Zoning Code. First, although safety for all Virgin Islanders on the road is a priority, it is important to note that the enforcement of this seatbelt law will be difficult and, as such, it may not accomplish the goal of providing greater safety. It is noted that greater safety may be achieved by simply allowing individuals to exercise their own choice to protect themselves, and by educating the public of the importance of wearing a safety belt while seated anywhere inside a moving vehicle. Furthermore, the inclusion of the nonconforming use provision, a separate unrelated amendment to the seatbelt Bill, is objectionable. The changes to the section governing nonconforming use should have been presented properly in a separate Bill, and the Department charged with enforcing the law permitted to testify on the measure. The steps taken to enact this bill are not beneficial to the Territory or the process of enactment of our laws. It is urged that such actions should not persist in future. **NOTE - the following technical correction is needed: "s" needs to be added after "year" to reflect the plural and numerical change in 29 § 234(h). Nonconforming uses.**

I have Vetoed Bill No. 33-0061. Regarding Bill 33-0061, an Act amending provisions of the economic development program to remove ambiguity in sections involving the power of the Commission, the benefit commencement date, and reduction of the structure of benefits extended to existing Beneficiaries, I believe certain material ambiguities still exist in the Bill. To truly eliminate any ambiguity from the economic development program and support existing, present, and future investment in the Virgin Islands, a more comprehensive review of the entire Economic Development Act needs to be completed. This current Bill enforces piecemeal action. More evaluation of whether these changes are necessary and how they would affect existing participants making important investments in the territory is needed before imposing public hearings as well as changing the tax benefits reduction and commencement of benefits. It is suggested that a review be initiated of the entire Economic Development Code and that legislation used by other territories, such as Puerto Rico, be used as a guide to developing a new comprehensive economic development program Bill, which will help continue to spur investment throughout the Territory. The Administration stands ready to work with the Legislature in this effort.

I have also signed into law Bill Nos. 33-0080 and 33-0085, amending Title 2, Chapter 9, section 154, of the Virgin Islands Code regarding the appointment of members to the Legislative Youth Advisory Council; as well as Bill No. 33-0082, honoring and commending Robert O'Connor, Jr. for his commitment to the people of the Virgin Islands through his service as a Senator, his membership on the Port Authority Board and his work as a community leader by naming the new Port Authority maintenance building in his honor.

Although I have approved Bill No. 33-0086, an Act amending title 19 of the Virgin Islands Code by inserting a new Chapter 52, requiring all restaurants and establishments that sell food to post signs that demonstrate appropriate first aid for choking, I must caution that further revisions are needed to allow for better implementation and enforcement of this

Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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Chapter. The term "establishment" needs to be defined in order to exclude temporary or non-permanent businesses selling food to the public, such as carnival or festival village booths and food trucks, among others. Additionally, the new Chapter does not give the Department of Health the authority to promulgate rules and regulations to better implement enforcement. In order to enable the Executive Branch to fully enforce the intent of this Act without unintended harassment to Virgin Islands businesses, amendments to this new Chapter 52 will be needed.

I am pleased to sign Bill No. 33-0090, amending Title 24, Chapter 12, Sections 302 and 308 of the Virgin Islands Code to implement a new methodology for assigning individual employer Unemployment Insurance Taxes as administered by the Virgin Islands Department of Labor's Division of Unemployment Insurance. This revision is essential to compliance with federal mandates.

I am also pleased to sign and approve Bill No. 33-0187, amending the Virgin Islands Code, Title 22, Chapter 10, Section 237(a)(3)(A) and Title 33 Chapter 111, Section 3061 relating to the required minimum balance in the Insurance Guaranty Fund to amend the currently required \$10,000,000 amount, scheduled to increase to \$50,000,000 on September 30, 2019, to \$20,000,000. A scaled approach to increase the required fund balance to \$50,000,000 is desirable on a gradual basis. Please note that pursuant to Title 1 Virgin Islands Code, Section 202, I am exercising my power to correct a typographical error in this bill in Section 1, by striking the "2" after title, and inserting "22" in its place. It is clear, by the title and context of this bill, that the intent was to amend Title 22 pertaining to Insurance and not Title 2 which affects the Legislature.

I have also Vetoed Bill No. 33-0092, An Act amending Title 4, Chapter 1 of the Virgin Islands Code by adding a new Section 7 providing the Judicial Branch of the Virgin Islands the authority to declare their own State of Emergency without relevant time frames and independently of the Executive Branch's declaration of emergency in the event of natural disaster or other emergencies. Although I support the powers this bill intends to confer upon the Judicial branch if, under the power of Executive Branch, a State of Emergency has been declared by the Governor, such a declaration must be in conformity with Title 23, Section 1005 of the Virgin Islands Code to include the time frames already designated for such emergencies.

Bill 33-0098 is approved and signed into law but requires that certain amendments be made to correct the issues that the language with the current Bill creates in regard to enforcement and regulation by the Virgin Islands Bureau of Internal Revenue (VIBIR) and the Division of Licensing and Consumer Affairs (DLCA). This Bill requires businesses to offer at least two payment options to their customers, one of which must be a credit card. However, the law creates an exemption that is unenforceable against any of the following individuals: itinerant vendors, farmers certified by the Department of Agriculture, fishermen certified by Department of Agriculture, and commercial establishments with an annual volume of business of less than \$50,000 per year. To enforce the exemption imposed, DLCA would be required to consult with VIBIR to obtain and have VIBIR disclose privileged taxpayer income

Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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information, and this is prohibited under federal law and the Virgin Islands Code. Therefore, the law is unenforceable as written. It is urged that the Legislature expeditiously enact technical corrections to this Bill by striking the exemption provision for businesses grossing under \$50,000, which will eliminate the need for unlawful disclosures and allow the law to be applied equally to all businesses in the Territory. To continue to progress, the Virgin Islands' tourism industry must provide the means for all visitors to the Virgin Islands to spend the maximum amount of money in the Territory. This can be achieved by requiring more than one option for payment and accepting the use of credit cards. The regulating agencies, VIBIR and DLCA, MUST also be consulted to enact additional amendments to enforce this law. And the technical corrections must clearly account for the statutory roles and regulatory authority of the relevant Government agencies and departments. Once these amendments and revisions are added, this Bill will produce positive results for the Virgin Islands. In this bill as well, pursuant to Title 1 Virgin Islands Code, Section 202, I am exercising my power to correct a typographical error in this bill in Section ~~151~~(g), by striking the word "though" and inserting "through" in its place.

I am pleased to approve Bill 33-0104, the Hotel Development Act ("HDA") Bill, and I commend the working groups for their hard work and collaboration in drafting this Bill. This Bill was a collective effort of this government and the business community, which took months but produced an important work product authored by various private sector individuals, the Virgin Islands Economic Development Authority ("EDA"), the Public Finance Authority ("PFA"), Senator Kurt Vialet's Office, and the Office of the Governor. The revitalization of the HDA that includes amendments and revisions to the HDA, is critical to the success of future investments in the Virgin Islands and the development of upcoming and existing hotels. This Bill creates a fund that hotel owners can use to spur urgently needed construction, reconstruction, and improvements of new and existing hotels throughout the Territory. Therefore, I encourage all hotel owners and developers to take advantage of the economic development incentives that the Virgin Islands has to offer by applying to participate in the HDA and other incentive programs that enhance options for development and investment. One technical correction amendment is requested to Bill 33-0104 in section 1312(f), to include a provision for notice to and consent of all holders of Hotel Development Notes if the economic recovery fund is sought to be decreased. This provision was requested earlier but left out of the final Bill. The suggested additional language is included in the Appendix attached hereto. Although I have also exercised my power, pursuant to Title 1 Virgin Islands Code, Section 202, to correct a typographical error in this bill in Section ~~1312~~(g), by adding the word "the" in front of Difference, I would like to note that the following technical corrections to the V.I. Code are needed:

- i. **§ 1306(b)(2) there is a typo and misspelled word "proforma"; a revision of this typo needs to be added to the bill**
- ii. **§ 1307(a)(2) need to add a comma after "hotel room occupancy tax revenues"**
- iii. **§ 1309(e)(1) this is the new section created by the revisions to subsection (c)(1) in the third line the suggested revisions create a run-on sentence which is unclear, so this line needs to be clarified and revised.**
- v. **§ 1317(b) delete quotation mark at the end and in the last line of this subsection**

Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-0149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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I am also pleased to sign Bill No. 33-0154, an Act ratifying the approval of Coastal Zone Management Permit No. CZX-18-18(L&W) issued to Gold Coast Yachts, Inc. to authorize the construction of a boat building facility at Plot No. 211 Estate Golden Rock, St. Croix; and Bill No. 33-0156, rezoning Plot No. 25 Estate Concordia, West End Quarter, Frederiksted, St. Croix, from R-2 (Residential-Low Density-One and Two Family) to B-3 (Business-Scattered) to allow for restaurant and retail uses on the property. These Permits will enable us to see progress and development in our Territory.

I have vetoed Bill No. 33-0188, a bill amending Title 17, Chapter 5, Section 60(d), increasing the Dept. of Education's ("DOE") procurement threshold from \$50,000 to \$250,000, not inclusive of construction contracts. As the administration of the DOE falls under the Executive Branch, I am disappointed that this bill was presented and passed without a single conversation with or testimony from the Executive Branch in order to understand the actual problems with the DOE's procurement timelines and learning about the New Procurement System recently instituted by the Department of Property and Procurement. This System seeks to expedite at lightning speed the procurement processes applicable to all Departments and to supervise procurement in all Departments. Removing the compliance review process that has been streamlined will not assist the DOE in proving to our federal partners that we are able to manage the funds we receive. Opening the door to less compliance and allowing more room for error will only set the Territory and the DOE back. Currently, the Department of Property & Procurement is actively assisting in training and educating our procurement professionals in each agency.

Bill No. 33-0195, reprogramming funds from the Fiscal Year October 1, 2018, to September 30, 2019, budgets of the office of the Governor, Office of Management and Budget, Department of Health and Department of Human Services, and to other departments and agencies to pay current and prior year obligations, has also been signed into law.

Finally, I acknowledge receipt of Resolution No. 1860 (Bill No. 33-0020), a resolution honoring and commending Tishelle Knight for her accomplishments, service, and musical contributions to the Virgin Islands; Resolution No. 1861 (Bill No. 33-0060), a resolution posthumously honoring and commending Alvin "Ali" Paul for his contribution to the culture of the Virgin Islands, through the Mocko Jumbie artform; and Resolution No. 1862 (Bill No. 33-0052), a resolution to petition the Governor of the Virgin Islands, me, and the Virgin Islands Delegate to Congress to join the 33rd Legislature in pursuing the return of a portion of the gasoline excise tax collected by the Federal Government.

Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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As always, I thank you and the members of the Thirty-Third Legislature for your sustained efforts and hard work on behalf of our community.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a final flourish.

Albert Bryan Jr.
Governor

Enclosures

APPENDIX

Bill No. 33-0011

Specifically, the St. Thomas and St. John Chamber of Commerce respectfully requests to add the following language to Bill 33-0011 to help resurrect the Historic District and return the historic port of Charlotte Amalie to the place of prominence it rightly deserves.

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- 1. To insert in SECTION 1, (a) (7): Anyone who lingers or remains on a public sidewalk or street to solicit, annoy, harass another person, or to promote a business.*
 - 2. To insert in SECTION 1, (b) (4): obstructs, or interferes with the legitimate business of another person, or intentionally annoys or harasses such other person, or who fails to produce a valid US Virgin Islands business license.*
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Specifically, the Virgin Islands Police Department respectfully requests to add clarifying language to Bill 33-0011 to provide some type of framework on which a set of facts can be analyzed to determine whether a Defendant can effectively be prosecuted based on such a charge.

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- 1. Insert language which addresses being a able to draw an inference that an individual is committing the act of loitering based on the activities they were observed doing and the time of day they were observed doing those activities; time of day can be a means of determining that an activity is suspicious or unlawful (for example early morning hours where no other individual is present and business is clearly closed)*
 - 2. The proposed language should include time, place and manner restrictions and should include language such as "in a manner not usual for non-criminals which create a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity."*
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Governor's Action on Budget Bill Nos. 33-0011, 33-0040, 33-0052, 33-0061, 33-0080, 33-0082, 33-0085, 33-0086, 33-0090, 33-0092, 33-0098, 33-0104, 33-0146, 33-0147, 33-0148, 33-149, 33-0154, 33-0156, 33-0187, 33-0188, 33-0195; and Resolution Nos. 33-0020, 33-0060, 33-0052.

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Bill 33-0104

Specifically, the Public Finance Authority respectfully requests to add the following language to Bill 33-0104 as an Amendment to Sec. 1312(~~Ø~~), which needs a provision for notice to and consent of all Holders of Hotel Development Notes if the ERF is sought to be decreased. *Insert the below changes into Sec. 1312(~~Ø~~) of the Bill under subsection "2(C)"*

(C) If the Board fails to vote within the 30-day period set forth in subparagraph (B) of this paragraph, the modification request shall be deemed approved ~~as of the date the 30-day period expires; except that in a force majeure event that prevents the Board from voting during the 30-day period, the Board shall have up to 60 days to vote to approve or disapprove the modification request.~~ *except that upon the occurrence of a Force Majeure Event, such 30-day period shall be extended to 60 days. If the Economic Recovery Fee has been pledged to the payment of Hotel Development Notes, no application for a decrease in the amount of the Economic Recovery Fee may be submitted without the written approval of all of the holders of the Hotel.*
